In the Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-502

LOUIS STRUMSKIS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The petition for certiorari was not timely filed.

On February 16, 1973, the Court of Claims entered final judgment for the United States dismissing a suit because the court found no infringement of the petitioner's patent. A motion for a rehearing was denied on April 13, 1973. On April 27, 1973, petitioner filed a second motion for a new trial. The Court of Claims denied this second motion on June 20, 1973. No extension of time for filing a petition for certiorari was obtained, and the petition was filed on September 17, 1973.

Since the petition for certiorari was filed more than ninety (90) days after the entry of the final judgment, the petition was not filed within the time specified by 28 U.S.C. 2102(c), unless the second motion, filed on April 27, 1973, tolled the running of the statutory period.

The time for petitioning is postponed by the timely filing of a motion for a new trial or a petition for a rehearing. The first motion, filed on February 26, 1973, was such a motion and tolled the time for petitioning until April 13, 1973, when the motion was denied. The second motion, however, was not such a motion. Its filing was not authorized by Rule 151 of the Court of Claims, and it did not suspend the running of the 90-day period for petitioning.

It is respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

NOVEMBER 1973.

FILE COPY

Supreme Court, U.S.
FILED
NOV 16 1973
MICHAEL RODAK, JR., CLERK

IN THE SUPREME COURT OF THE UNITED STATES

PETITIONER'S REPLY

LOUIS STRUMSKIS V. THE UNITED STATES

October Term, 1973
No. 73-502

Louis Strumskis, Petitioner (Pro se)
3230 S. E. 10th Avenue
Ocala, Florida 32670

OBJECTIONS BY THE PLAINTIFF

Now comes the Plaintiff in Mr. Louis Strumskis and particularly objects to defendant's RESPONSE filed on November 5, 1973, first paragraph, to wit:... "The petition for certiorary was not timely filed"... because such an assumption against Plaintiff's petition which was filed on September 17, 1973 is obviously contrary to the United States Court of Claims decree of June 20, 1973.

There are two separate cases found in this one order of June 20, 1973. The defendant has obviously confused himself with that one other case involving Chris Berg, Inc. and his particular motion for .... *"Reconsideration out of time"*.

A copy of this same order filed on June 20, 1973 is attached at the rear of this brief.

Also, Plaintiff is at a loss to understand what manner of relationship Criminal Law has in this one

patent infringement case, since defendant has taken to quote Title 28 U.S.C. 2102, as can be seen at the bottom of page one in DEFENDANT'S MEMORANDUM filed November 5, 1973. Such a title and section of the law deals solely with criminal cases.

CONCLUSION

Defendant's response comprises barely more than one page, yet it is so grossly contradictory to facts and in error to laws, that this one Supreme Court cannot seriously take any consideration of such a response by reason of obvious nonrelevance and confusion within the weightier matters involved in that one documant.

Therefore, in view of such an incompetent defense, it does follow that this Supreme Court must consequently grant to review petitioner's Writ of Certiorari. Petitioner awaits to hear from this court in order to proceed with Rule No. 26 and also establish a time for oral argument.

With all due regards,

Louis Strumskis

Louis Strumskis, Petitioner

IN THE UNITED STATES COURT OF CLAIMS

231-68 CHRIS BERG, INC.)
) v. THE UNITED STATES
232-68 LOUIS STRUMSKIS)

Before COWEN, Chief Judge, LARAMORE, Senior Judge, DAVIS, SKELTON, NICHOLS, KASHIWA, KUNZIG and BENNETT, Judges, except that Senior Judge LARAMORE participated only in No. 231-68 in which Judges KUNZIG and BENNETT took no part.

ORDER

These cases come before the court on motions requesting permission to file a motion for reconsideration out of time and a motion for a new trial under Rules 151 and 152 of the Rules of this court and, on consideration thereof,

IT IS ORDERED that said motions be and the same are denied as follows:

231-68 Chris Berg, Inc. Plaintiff's motion requesting permission to file a motion for reconsideration out of time.

232-68 Louis Strumskis. Plaintiff's motion for a new trial under Rules 151 and 152.

BY THE COURT

JUN 20 1973

Chief Judge